

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **April 9, 2002**

AGENDA ITEM NO.: 15

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Rezoning - Lynchburg Computer Systems, Inc. – Computer Sales**

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Lynchburg Computer Systems, Inc. has petitioned to rezone about 0.472 acres at 7605 Timberlake Road from B-1, Limited Business District, to B-3 (Conditional), Community Business District, to allow the use of an existing building for the sale and repair of computers.

The Planning Division (PD) recommended approval of the rezoning petition because:

- Petition will not alter the appearance of the existing structure.
- Petition is considered to be compatible with the surrounding area and the existing zoning.

The petition was considered by the Planning Commission (PC) on March 20, at which time the PC recommended approval of the petition, with the proffers noted below.

PRIOR ACTION(S):

March 20, 2002:

Planning Division recommended approval of rezoning petition.

Planning Commission recommended approval (7-0) of petition with the following proffers:

1. The petitioner proffers that the below listed uses permitted by right under B-3 zoning will be eliminated from potential use:

Garden and farm supplies	Auditoriums
Greenhouses, nurseries and garden supply establishments	Automobile driving schools
Pets	Banquet halls
Supermarkets	Bicycle rentals
Virginia ABC package stores	Pawn shops
Hotels and motels	Stage and motion picture theaters
2. The petitioner proffers that the use of the property will exclude any business whose primary interest is books, motion picture sales or rentals or paraphernalia related to adults only.
3. The petitioner proffers the attached "as built" survey/site plan by Berkley-Howell & Associates, P.C. Commission No. 02003, and agrees that the property will be used and developed in substantial compliance with the survey/site plan

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn/ 847-1508, ext. 253

Bill McDonald/ 847-1508, ext. 257

ATTACHMENT(S):

- Ordinance
- PC Report
- PC minutes
- Vicinity Map
- Lanu Use Map
- Site plan
- Photographs

REVIEWED BY:

AN ORDINANCE CHANGING A CERTAIN AREA FROM B-1, LIMITED BUSINESS DISTRICT TO B-1 (CONDITIONAL), COMMUNITY BUSINESS DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG in order to promote the public necessity, convenience, general welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area from B-1, Limited Business District to B-3 (Conditional), Community Business District.

The area embraced within the following boundaries . . .

Beginning at an iron pin found on the right of way line of Roundelay Road on the dividing line between the subject property known as 7605 Timberlake Road and Tax Map No. 249-02-010, thence N 42° 45' 00" W 206.50 feet to an iron pin found; thence S 47° 15' 00" W 89.17 feet to an iron pin found; thence S 03° 11' 00" E 17.01 feet to an iron pin found; thence S 42° 45' 00" E 193.39 feet to an iron pin found; thence N 47° 15' 00" E 100.00 feet to the point of beginning, being 0.472 acre.

. . . is hereby changed from B-1, Limited Business District to B-3 (Conditional), Community Business District, subject to the conditions setout hereinbelow which were voluntarily proffered in writing by the owners, namely: Monumental Life Insurance, to wit:

- The petitioner proffers that the below listed uses permitted by right under B-3 zoning will be eliminated from potential use:
 - Garden and farm supplies
 - Greenhouses, nurseries and garden supply establishments
 - Pets
 - Supermarkets
 - Virginia ABC package stores
 - Hotels and motels
 - Auditoriums
 - Automobile driving schools
 - Banquet halls
 - Bicycle rentals
 - Pawn shops
 - Stage and motion picture theaters
- The petitioner proffers that the use of the property will exclude any business whose primary interest is books, motion picture sales or rentals or paraphernalia related to adults only.
- The petitioner proffers the attached "as built" survey/site plan by Berkley-Howell & Associates, P.C. Commission No. 02003, and agrees that the property will be used and developed in substantial compliance with the survey/site plan.

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

072L

To: Planning Commission
From: Planning Division
Date: March 20, 2002
Re: **REZONING: B1 to B-3(CONDITIONAL) at 7605 TIMBERLAKE ROAD**

I. PETITIONERS

Lynchburg Computer Systems, Inc., 17860 Forest Road, Forest, VA 24551.
Representative: William Overacre

II. LOCATION

The subject property is a tract of about 0.472 acres located at 7605 Timberlake Road.
Property Owners: Monumental Life Insurance, 2 East Chase Street, Baltimore, Maryland 21202.

III. PURPOSE

The purpose of this petition is to rezone the subject property from B-1, Limited Business District, to B-3(C), Community Business District, to allow the use of an existing building for the sale and repair of computers.

IV. SUMMARY

- Petition does not agree with the *General Plan*, which recommends an Office Commercial use.
- Petition will increase the intensity of zoning of a small existing commercially used parcel.
- Petition is considered to be compatible with the surrounding area and the existing zoning.

- **The Planning Division recommends approval of the rezoning petition.**

V. FINDINGS OF FACT

1. **General Plan.** The Lynchburg *General Plan* recommends an Office Commercial use for the subject property. The subject petition proposes to rezone the property to a more intensive zoning classification, as well as to use the property for a more intensive use. However, there are only five parcels between the large Commercial Business area at Timberlake Plaza and Roundelay Road, and the largest parcel is currently zoned B-3. Because the petition proposes a compatible land use, does not alter the appearance of the existing structure, and the size of the parcel is relatively small, it is reasonable to allow this portion of the existing Office Commercial area to become Commercial Business.

Zoning. The existing B-1 commercial zoning was established with the annexation of the area in 1976. It appears that the structure had just been constructed at that time. The proposed use of the property will not alter the layout of structure or buffers. Because of the existing Commercial Corridor Overlay District along Timberlake Road, the redevelopment of the property will need to provide for future shared access to adjacent parcels, which has been indicated with the petition. The petitioner is requesting a rezoning to a more intensive zoning classification than currently exists, which is compatible with the surrounding area.

2. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 - The petitioner proffers that the below listed uses permitted by right under B-3 zoning will be eliminated from potential use:

Garden and farm supplies
Greenhouses, nurseries and garden supply establishments
Pets
Supermarkets
Virginia ABC package stores
Hotels and motels

Auditoriums
Automobile driving schools
Banquet halls
Bicycle rentals
Pawn shops

Stage and motion picture theaters

- The petitioner proffers that the use of the property will exclude any business whose primary interest is books, motion picture sales or rentals or paraphernalia related to adults only.
- The petitioner proffers the attached "as built" survey/site plan by Berkley-Howell & Associates, P.C. Commission No. 02003, and agrees that the property will be used and developed in substantial compliance with the survey/site plan.

Because the last two proffers were submitted less than 21 days before the Planning Commission meeting, the Planning Commission must consider granting a waiver to the requirements of the Zoning Ordinance to accept the new proffers.

3. **Board of Zoning Appeals (BZA).** No action by the BZA is necessary.
4. **Surrounding Area.** There have been no recent rezoning petitions or CUP petitions in the vicinity of the subject property.
5. **Site Description.** The site is approximately 0.472 acres on which is located a commercial structure (Monumental Life Insurance). The existing structure is a two story brick office building with most of the remainder of the site being paved parking. The property is bounded to the east by an undeveloped parcel and commercial use (NeWeigh Weight Management) beyond; to the south by Timberlake Road and undeveloped B-3 property beyond; to the west by the office of Lynchburg Wesleyan Church; and to the north by a single-family residence.
6. **Proposed Use of Property.** The purpose of the rezoning is to allow the sale and repair of computers in the existing commercial building. Part of the structure is proposed to continue to be used for office use. This use does not require a rezoning, but is noted for informational purposes.
7. **Traffic & Parking.** The City Traffic Engineer had no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic. The site plan indicates 36 parking spaces. Because there has been no indication of the number of employees on duty at any one time, it has not yet been determined how many parking spaces will be required by the regulations of the Zoning Ordinance for the proposed uses. However, it appears that there would be approximately 24 parking spaces required for the uses. This means that the site has more parking spaces than are required. Three or four of these spaces would be used to provide the shared access to the adjacent properties (see Note 5 on the site plan). The shared access should serve to reduce the future traffic impact from the subject and adjacent properties on Timberlake Road, as was the intent of the Commercial Corridor Overlay District.
8. **Storm Water Management.** The Environmental Specialist of the Robert E. Lee Soil & Water Conservation District notes that a storm water management plan will be required only if the disturbed area exceeds 1,000 square feet. Other than street drainage, the pending subdivision does propose any new disturbed areas.
9. **Visual Impact.** The current submittal proposes the re-classification and use of a parcel of land for commercial purposes. There is no concern about the visual impact the proposed use will have on adjacent area. There is an existing evergreen buffer to remain at the rear of the subject property. This is the only place where the subject property abuts a residential use. The proposed use is more intensive than the existing use, but will not have an adverse impact on the future continued stability of the surrounding area. The proposed rezoning is compatible with the surrounding land uses and zoning.
10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 19 and noted the need for a few revisions, all of which were minor in nature and will need to be addressed by the petitioner. The proposed change of use for the property raised an issue with regard to the provisions of the building code (fire code). The property must provide a setback of 15

feet to the adjacent property (on the east) or the structure must be modified in any of various ways to address this requirement. This is a building code matter and the rezoning petition will not alter the need for the matter to be addressed as a separate matter.

VI. PLANNING DIVISION RECOMMENDATION

1. That the Planning Commission waive the provisions of Section 35.1-43.1, Conditional Zone or Zone Approval, of the Zoning Ordinance, that requires the submittal of proffers no less than 21 days prior to the Planning Commission meeting.
2. Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Lynchburg Computer Systems, Inc. to rezone about 0.472 acres at 7605 Timberlake Road from a B-1, Limited Business District, to B-3 (Conditional), Community Business District to allow the use of an existing building for the sale and repair of computers.

This matter is respectfully offered for your consideration.

William K. McDonald, AICP
Acting City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. John W. Jennings, Fire Marshal
Ms. Judith C. Wiegand, Strategic Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. William Overacre, Representative

VI. ATTACHMENTS

1. Vicinity Zoning Pattern
(see attached map)

2. Vicinity Proposed Land Use
(see attached map)

3. Site Plan
(see attached site plan)

MINUTES FROM THE MARCH 20, 2002 PLANNING COMMISSION REPORT

Petition of Lynchburg Computer Systems, Inc., to rezone the property at 7605 Timberlake Road from B-1, Limited Business District, to B-3(C), Community Business District, to allow the use of an existing building for the sale and repair of computers.

Mr. William Overacre, licensed real estate broker at 20395 Timberlake Road, represented the petitioner, Mr. Rick Jones, who was also in attendance. Mr. Overacre said Mr. Jones had an existing computer business in Bedford County on Rt. 221. He said Mr. Jones was the contractor purchaser of the subject property at 7605 Timberlake Road and wished to move his business to that location. He said the Planning Department's report was a very accurate representation of the petition and the proffers. He explained that the property was bordered by both business and residential use, and was heavily buffered along the back where it met the residential area. He noted that they had included in their site plan an agreement to have access across the back of the site if and when properties adjacent to the site were developed or redeveloped. He said they met with members of the neighboring church and included proffers that the church had requested such as no Virginia ABC package store nor any business that primarily related to selling or renting videos or books aimed at adults only. He said this business was totally self-contained and had tried to keep the business in a quiet location. He concluded by saying that the proffers were made willingly and they had received no negative comments at this time.

Chair Dahlgren said this was a great location for a business such as and added that the competition would be nice.

After further discussion Commissioner Echols made the following motion, which was seconded by Commissioner Worthington and passed by the following vote:

That the Planning Commission waive the provisions of Section 35.1-43.1, Conditional Zone or Zone Approval, of the Zoning Ordinance, that requires the submittal of proffers no less than 21 days prior to the Planning Commission meeting.

AYES: Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:	0
ABSTENTIONS:	0

After further discussion Commissioner Wilkins made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

That the Planning Commission recommends to the City Council approval of the petition of Lynchburg Computer Systems, Inc. to rezone about 0.472 acres at 7605 Timberlake Road from a B-1, Limited Business District, to B-3(Conditional), Community Business District to allow the use of an existing building for the sale and repair of computers.

AYES: Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:	0
ABSTENTIONS:	0